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DEPARTMENT OF AUDITOR-CONTROLLER**

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August 14, 2009

TO: Supervisor Don Knabe, Chairman
Supervisor Gloria Molina
Supervisor Mark Ridley-Thomas
Supervisor Zev Yaroslavsky
Supervisor Michael D. Antonovich

FROM:

Wendy L. Watanabe
Auditor-Controller

A handwritten signature in blue ink, reading "Wendy L. Watanabe", is written over the printed name and title.

SUBJECT: **COMMUNITY AND SENIOR SERVICES FISCAL YEAR 2009-2010
WORKFORCE INVESTMENT ACT ADULT AND DISLOCATED
WORKER THIRD-LEVEL APPEAL PROCESS AND ADMINISTRATIVE
COST REVIEW (Board Agenda Item 16, June 30, 2009)**

On June 30, 2009, your Board directed the Auditor-Controller to review Community and Senior Services' (CSS) Workforce Investment Act (WIA) contract solicitation process. Specifically, you directed us to review the County's third-level appeal process of the Adult and Dislocated Worker contracts for Area #12 (West San Gabriel Valley) and Area #3 (City of Compton). In addition, your Board directed my office to review the appropriateness of the proposed \$9.2 million for program coordination and administration.

Results of Review

The Contract Solicitation

Overall, CSS followed the County's guidelines in reviewing and evaluating the proposals. The evaluation committee members possessed the appropriate qualifications. In addition, at least two evaluation committee members independently evaluated each proposal and CSS used the average method to determine the overall score for each proposal. CSS also appropriately followed County contracting guidelines during the departmental debriefing process and second-level appeal.

The Board's Services Contract Solicitation Protest Policy (Protest Policy) allows proposers to request a Departmental Debriefing (first-level appeal) to discuss why they were not selected. If a proposer is not satisfied with the results of the first-level appeal, the proposer may request the Department to perform a Proposed Contractor Selection Review (second-level appeal). If the proposer is still not satisfied with the results of the second-level appeal, the proposer may request a review by the County's Chief Executive Office (CEO) County Review Panel (third-level appeal).

However, CSS did not follow the Protest Policy in conducting the third-level appeal which appears to have impacted the integrity of the WIA Adult and Dislocated Worker solicitation. Specifically:

- CSS did not request the CEO to convene the County Review Panel as required. Instead, CSS requested three members of the Workforce Investment Board (WIB) to convene as the County Review Panel.
- The three WIB members that conducted the third-level appeal also participated in approving the Request for Proposal (RFP). In addition, the three WIB members approved CSS' recommended contractors for Fiscal Year (FY) 2009-10.
- The three WIB members based their conclusions to approve one proposer's third-level appeal not on the assertions made by the proposer, but on other justifications not presented by the proposer, and not in accordance with the Protest Policy.

We also noted minor mathematical errors for seven (19%) of the 37 proposals. In addition, the evaluation committee members did not always provide written comments to support their individual scores. However, our review found that the mathematical errors and the lack of written comments did not impact the overall results of the solicitation.

Program Coordination and Administrative Cost Review

In their June 30, 2009 Board letter, CSS reported program coordination and administrative costs totaling approximately \$9.2 million (25%) from the total program budget of approximately \$37.2 million. CSS did not separately report the program coordination and administrative costs. As a result, the Board could not determine whether the administrative costs were within the 10% maximum allowed under 20 CFR 667.210(a)(2) and Chapter II-5 (page II-5-3) of the One-Stop Comprehensive Financial Management Technical Assistance Guide.

CSS identified approximately \$3.6 million (10%) of the \$37.2 million total program budget related to administrative costs, such as accounting, financial, cash management,

procurement and legal services. The remaining \$5.6 million (\$9.2 million - \$3.6 million) related to program coordination and the provision of workforce investment services. As such, they were classified as program costs and are not included in the administrative costs. For example:

- \$3.1 million related to funding CSS' WIA Planning and Operations Division (Division). The Division oversees the WIA Programs and provides program training and technical assistance to the WIA contractors.
- \$670,000 related to additional funding that CSS plans to allocate directly to the service providers throughout the program year.
- \$530,000 related to lease payments for a facility used by a contractor to provide WIA services.

Conclusion

CSS management needs to follow the Protest Policy and request the County's CEO to convene the County Review Panel and redo the third-level appeal. CSS management also needs to ensure the mathematical accuracy of the evaluation instruments and that the evaluators provide written comments to support the individual scores.

Based on the documentation provided by CSS, the proposed administrative and program coordination costs for the FY 2009-2010 WIA Adult and Dislocated Worker Programs appeared appropriate, reasonable and within the maximum allowed amount.

Details of our review and recommendations for corrective action are attached.

We thank CSS for their efforts and cooperation throughout the review. If you have any questions, please call me or your staff may contact Don Chadwick at (213) 253-0301.

WLW:MMO:JET:DC:EB

Attachment

c: William T Fujioka, Chief Executive Officer
Sachi A. Hamai, Executive Officer, Board of Supervisors
Cynthia D. Banks, Director, Community and Senior Services
Public Information Office
Audit Committee

**COMMUNITY AND SENIOR SERVICES
WORKFORCE INVESTMENT ACT ADULT AND DISLOCATED WORKER
FISCAL YEAR 2009-2010 CONTRACTS**

THIRD-LEVEL APPEAL PROCESS AND ADMINISTRATIVE COST REVIEW

Background

On June 30, 2009, your Board directed the Auditor-Controller to review Community and Senior Services' (CSS) Workforce Investment Act (WIA) contract solicitation process. Specifically, you directed us to review the County's third-level appeal process of the Adult and Dislocated Worker contracts for Area #12 (West San Gabriel Valley) and Area #3 (City of Compton). In addition, your Board directed my office to review the appropriateness of the proposed \$9.2 million for program coordination and administration.

Our review evaluated CSS' compliance with the County's contracting guidelines covering the following key solicitation areas:

- The Solicitation Document
- The Evaluation Committee
- The Evaluation Instrument
- The Evaluation Process
- The Departmental Debriefing Process
- The Second-level and Third-level Appeal Process

The Contract Solicitation

The Solicitation Document

CSS appropriately described the solicitation requirements, the proposal evaluation process, and the proposers' protest procedures in the Fiscal Year (FY) 2009-10 WIA Adult and Dislocated Worker's Request for Proposal (RFP). Specifically, CSS included the following information:

- The requirements the proposers must meet before they are evaluated and the criteria that CSS would use to evaluate the written proposals.
- An appropriate description of the evaluation process and the weights of importance for each evaluation criterion.
- The formal appeals process in which firms can challenge their evaluation score or the evaluation process.

Recommendation

None.

The Evaluation Committee

According to Section 7.3 of the RFP, "the evaluation committee may be comprised of groups such as County staff, academe and community representatives, approved vendors, or otherwise persons deemed qualified by the County."

CSS' evaluation committee comprised of 15 CSS employees and three staff from other County departments. The evaluation committee members were selected based on the following criteria:

- At the level of a Community Services Analyst II or above or,
- Were familiar with the County's procurement process or,
- Knowledgeable in the WIA Programs or other social services programs.

In addition, CSS required each evaluation committee member to sign a Conflict of Interest Statement, which certified the member did not have direct or indirect financial interest in selecting a contractor.

Based on our review, CSS' evaluation committee was qualified and appropriate.

Recommendation

None.

The Evaluation Instrument

The proposal evaluation instrument listed the evaluation criteria and the percentage of points allocated to each criterion. The following were the areas evaluated:

- Approach to provide the required services (50%)
- The applicant's qualification (30%)
- Cost proposal (15%)
- The quality control plan (5%)

The areas reviewed and the percentage of points allocated to each criterion agreed with the information listed in the RFP.

According to CSS, the evaluation tool was developed in compliance with Internal Services Department's (ISD) Effective Proposal Evaluations guidelines and in collaboration with CSS' WIA Planning and Operations Division, in which each question was carefully evaluated to determine the merit and importance in meeting the needs of the WIA Programs and to ensure that the points allotted to each question were weighed appropriately.

Based on our review, CSS' proposal evaluation instrument was complete and appropriate.

Recommendation

None.

The Evaluation Process

CSS received 14 proposals to provide services in 12 regions. A proposer may submit a proposal to provide services in more than one region. CSS staff indicated that all proposals met the minimum qualifications and were forwarded to the evaluation committee for further evaluation.

At least two members of the evaluation committee independently reviewed each proposal using a 1,000 point scale. If more than one proposal was submitted for a specific region, all proposals for those regions were reviewed by three evaluation committee members. Five (42%) of the 12 regions received more than one proposal.

After completing their independent assessments, the evaluators had the option of meeting together to discuss their individual scores to resolve any significant differences in their scoring. CSS used an average scoring methodology to assign scores to each proposal. The evaluators' scores for each proposal were added together and then divided by the number of evaluators to calculate the proposal's average score.

The evaluation committee followed the evaluation process identified in the RFP in a fair, reasonable and consistent manner. In addition, we noted no significant differences in the numeric scores assigned by the evaluators rating the same proposals. However, minor mathematical errors were noted for seven (19%) of the 37 evaluations. The mathematical errors did not impact the proposal rankings. In addition, the evaluators did not always provide comments to support their individual scores. Ten (27%) of the 37 evaluations completed did not include comments by the evaluators. CSS' WIA Adult and Dislocated Worker RFP Rating Guidelines and Procedures and ISD's Services Contracting Manual Section 7.7.6 recommend that evaluators provide written comments to support their scores.

According to Section 7.8 of the RFP, the evaluation committee may conduct a site visit or may request an interview of proposers receiving the highest scores. During the site visit or interview, the evaluation committee can further assess the applicant's ability to pass the certification process which is a condition for funding as a County WorkSource Center.¹

The evaluation committee did not request site visits or interviews of the 14 proposers. Although site visits or interviews were not required, when the scoring differential between two proposers are negligible, a site visit and interviews can further assist the evaluators to determine which proposer can better fulfill the requirements of the RFP.

¹ According to Section 3.3 of the RFP, a provisional certification will be granted to the successful applicant to permit the agency to receive funds to complete activities required during the transition period and to complete the certification process.

In one region, the point differential between the top ranked proposal and the second ranked proposal was less than 20 points on a 1,000 point scale.

Recommendations**CSS management:**

- 1. Ensure the mathematical accuracy of the evaluation instruments.**
- 2. Ensure that the evaluators provide written comments to support the individual scores.**
- 3. Recommend the evaluation committee conduct site visits or interviews when the point differentials is negligible to further assess which proposer can better fulfill the requirements described in the RFP.**

Departmental Debriefing Process (First-Level Appeal)

The proposers may request a departmental debriefing (first-level appeal) after being notified of the results of their proposal evaluation. The departmental debriefing involves CSS meeting with individual proposers to discuss the results of their bid evaluation and allows CSS to address any expressed concerns.

For this solicitation, the following six proposers requested a departmental debriefing:

- West San Gabriel Valley Consortium, dba Career Partners
- Managed Career Solutions, Inc. (MCS)
- Community Career Development, Inc. (CCD)
- City of Compton - Compton CareerLink (Compton CareerLink)
- Arbor Education & Training, LCC
- H.S. Consortium of the East San Gabriel Valley, dba LA Works

CSS staff in charge of administering the solicitation process completed all six department debriefings as required by the Board's Services Contract Solicitation Protest Policy (Protest Policy).

Overall, the debriefings resulted in minor adjustments to five (83%) of the six proposers' scores. The adjustments did not result in changes to the proposals' overall rankings. As a result, CSS appropriately performed the first-level appeal.

Recommendation

None.

Proposed Contractor Selection Review (Second-Level Appeal)

If a proposer is not satisfied with the results of the departmental debriefing, the proposer may request a Proposed Contractor Selection Review (second-level appeal) if all four of the following criteria are met in accordance with the Protest Policy:

- The firm/person requesting a Proposed Contractor Selection Review is a proposer;
- The request for a Proposed Contractor Selection Review is submitted timely;
- The firm/person requesting a Proposed Contractor Selection Review asserts that it should have been determined to be the lowest cost, responsive and responsible bidder or the highest-scored proposer because of one of the following reasons:
 - ◆ The department materially failed to follow procedures specified in its solicitation document.
 - ◆ The department made identifiable mathematical or other errors in evaluating proposals, resulting in the proposer receiving an incorrect score and not being selected as the recommended contractor.
 - ◆ A member of the Evaluation Committee demonstrated bias in the conduct of the evaluation.
 - ◆ Another basis for review as provide by State or federal law.
- The request for a Proposed Contractor Selection Review sets forth sufficient detail to demonstrate that, but for the department's alleged failure, the firm/person would have been the lowest cost, responsive and responsible bidder or highest-scored proposer.

Career Partners and Compton CareerLink requested a second-level appeal. CSS staff with contracting knowledge and WIA Program experience, and who were not previously involved with the solicitation in question, conducted the second-level appeal and denied the appeal.

Specifically, according to our review of CSS' records, the documentation provided by the two proposers did not demonstrate:

- The department materially failed to follow procedures specified in its solicitation document.
- The department made identifiable mathematical or other errors in evaluating proposals, resulting in the proposer receiving an incorrect score and not being selected as the recommended contractor.

- A member of the Evaluation Committee demonstrated bias in the conduct of the evaluation.
- Another basis for review as provide by State or federal law.

Based on our review, we determined that CSS appropriately denied the proposers' second-level appeal in accordance with the Protest Policy.

Recommendation

None.

County Review Panel Process (Third-Level Appeal)

A proposer may request a review by the County Review Panel (third-level appeal) if the proposer is not satisfied with the results of the second-level appeal.

According to the Protest Policy, a County department is required to submit a written request to the Chief Executive Office (CEO) to convene the County Review Panel. The County Review Panel is comprised of individuals from other County departments that possess a good understanding of the County's contracting polices and procedures. In addition, the members of the County Review Panel can not have prior involvement with the solicitation under review. Similar to the second-level appeal process, the proposer that requests a third-level appeal must meet **all** four of the criteria previously noted.

CSS did not follow the Protest Policy in conducting the third-level appeal process requested by Career Partners and Compton CareerLink. As a result, the outcomes of the third-level appeal appears to reduced the integrity of the contracting process. CSS did not follow the Protest Policy for Career Partners and Compton CareerLink's third-level appeals in the following areas:

- CSS did not request the CEO to convene the County Review Panel as required. Instead, CSS requested three members of the Workforce Investment Board (WIB) to convene as the County Review Panel.
- The three WIB members that participated in the third-level appeal also participated in approving the RFP. In addition, the three WIB members approved the contractors selected for FY 2009-2010. According to the Protest Policy, no member of the County Review Panel may have prior involvement with the solicitation.

In addition, the three WIB members' justification to approve Career Partners' third-level appeals did not comply with the Protest Policy. According to their report, the three WIB members based their decision on the following:

- The point differentials between Career Partners (955) and MCS (973) out of 1,000 points were negligible; other factors should be looked at in determining which agency receives the contract award.
- Career Partners already has existing relationships with the cities and schools in the West San Gabriel Valley Area.
- It was in the best interests of the constituents of the West San Gabriel Valley Area to withstand the learning curve of a provider new to the area.

Based on our review, CSS did not comply with the Protest Policy. Specifically, CSS did not request the CEO to convene the County Review Panel for the third-level appeal and the panel CSS selected was not independent of the solicitation process as required. CSS management needs to request the County's CEO to convene the County Review Panel and redo the third-level appeal in accordance with the Protest Policy.

Recommendation

- 4. CSS management request the County's CEO to convene the County Review Panel and redo the third-level appeal in accordance with the Protest Policy.**

Program Coordination and Administrative Cost Review

According to 20 CFR 667.210(a)(2) and Chapter II-5 (page II-5-3) of the One-Stop Comprehensive Financial Management Technical Assistance Guide, administrative costs should not exceed 10% of total expenses. In CSS' June 30, 2009 Board letter, the Department reported program coordination and administrative costs totaling approximately \$9.2 million (25%) of the total program budget of approximately \$37.2 million. CSS did not separately report the program coordination and administrative costs. As a result, the Board could not determine whether the administrative costs were within the 10% maximum.

During our review, CSS identified approximately \$3.6 million (10%) of the \$37.2 million total program budget related to administrative costs, such as accounting, financial, cash management, procurement and legal services. The remaining \$5.6 million (\$9.2 million - \$3.6 million) related to program coordination that included the provision of workforce investment services. As such, they were classified as program costs and are not included in administrative costs. For example:

- \$3.1 million related to funding CSS' WIA Planning and Operations Division (Division). The Division oversees the WIA Program and provides program training and technical assistance to the WIA contractors.
- \$670,000 related to additional funding that CSS plans to allocate directly to the service providers throughout the program year.

- \$530,000 related to lease payments for a facility used by a contractor to provide WIA services.

Based on the documentation provided by CSS, the proposed administrative and program coordination costs for the FY 2009-2010 WIA Adult and Dislocated Worker Programs appeared appropriate, reasonable and within the maximum allowed amount.

Recommendation

5. CSS management ensure that administrative and program costs are separately reported.